IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

Bail Appl..No. 4652 of 2007()

CRIME NO. 171/07 OF NEDUPUZHA POLICE STATION

.....

PETITIONER/I3TH ACCUSED

SHIJU, AGED 24 YEARS,
S/O.MANI, PADATHIPARAMBIL HOUSE,
HERBERT NAGAR, NEDUPUZHA DESOM,
KANIMANGALAM VILLAGE, THRISSUR TALUK.

BY ADV. SRI.NAGARAJ NARAYANAN
SRI.SAIJO HASSAN
SRI.A.S.SABU

RESPONDENTS: STATE

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 03/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

- -

B.A.No. 4652 of 2007

- -

Dated this the 3rd day of August, 2007

O R D E R

Application for regular bail. Petitioner is the 13th accused. Altogether there are 13 accused persons. The alleged incident took place on 10.5.2007. The petitioner was arrested on 28.6.2007. The first accused and the deceased had some strained relationship. On account of that animosity, the first accused is alleged to have attacked the deceased along with accused 2 to 12. They chased the deceased. He was waylaid. He ran to a house to take shelter. The miscreants followed him and attacked. He succumbed to the injuries suffered. The petitioner was not admittedly present with the miscreants.

2. What then is the role of the petitioner? It is the specific case of the prosecution that in furtherance to prior concert, the petitioner was monitoring the movements of the deceased and was conveying the presence and movements of the deceased to the other accused to facilitate the attack on him. The petitioner was arrested. Investigation is in progress. He continues in custody. Some of the accused remain to be apprehended.

3. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The mere fact that there were calls

received from the first accused is no sufficient reason to justify any indictment against the petitioner. The petitioner, who has remained in custody from 28.6.2007, may now be enlarged on bail, it is prayed.

4. The learned Prosecutor opposes the application. He concedes fairly that the prosecution has no case that the petitioner was present physically along with the other offenders. But the available indications, details of a cellular phone, convincingly point to the complicity of the petitioner. At this early stage of investigation, I shall and need not pronounce authentically whether the allegations raised are sufficient to justify an eventual conviction. But I am certainly of the opinion that there is merit in the opposition of the learned Prosecutor. The petitioner is not entitled to be enlarged now in a serious crime like this. The Investigator is entitled to sufficient time to complete the investigation.

5. This application is, in these circumstance, dismissed. But I may hasten to observe that the petitioner shall be at liberty to move the court for bail again at a later stage of the investigation, not at any rate, prior to 10.8.2007. The Investigators shall, in the meantime, make every endeavour to complete the investigation.

(R. BASANT)
Judge

tm